

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1225

Introduced by Senator Padilla

February 23, 2012

~~An act to amend Sections 14070 and 14070.2 of the Government Code, relating to transportation. An act to amend Sections 14031.8, 14070.2, 14070.4, and 14070.6 of, and to repeal and add Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1225, as amended, Padilla. Intercity rail agreements.

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity rail passenger services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of the Business, Transportation and Housing Agency, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with the approval of the secretary, to enter into an additional interagency transfer agreement with respect to the LOSSAN Corridor, defined to mean the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo, if the LOSSAN Agency, an existing joint powers agency, is reconstituted through an amended joint powers agreement approved by the governing boards of its members to enable that agency to enter

into an interagency transfer agreement with the secretary relative to the LOSSAN Corridor.

This bill would require an interagency transfer agreement for the LOSSAN Corridor to cover the initial 5-year period after the transfer. The bill would require the secretary, if an agreement is not entered into by December 31, 2013, to report to the Governor and the Legislature by January 31, 2014, as specified.

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds. Existing law states that the interagency transfer agreement may provide that any additional funds required to operate the passenger rail service during a fiscal year shall be provided by the joint powers board from jurisdictions that receive service.

This bill would delete the provision requiring additional funds to be provided by the board, and would instead provide that those funds may be provided by the board. The bill, with respect to the LOSSAN Corridor, would provide that local resources shall not be available to offset any redirection, elimination, reduction, or reclassification of state resources for operating intercity rail services.

This bill would authorize the secretary to adopt new performance standards by December 31, 2014, for intercity rail services.

This bill would repeal now-obsolete provisions authorizing the Southern California Regional Rail Authority to be a party to an interagency transfer agreement for intercity rail services in specified counties.

~~Existing law authorizes the Department of Transportation to contract with Amtrak for intercity rail passenger services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of Business, Transportation and Housing, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.~~

~~This bill, until December 31, 2013, would authorize the department and a joint powers board established for the purpose of assuming~~

~~responsibility for the Pacific Surfliner intercity rail corridor to enter into an agreement under similar terms and conditions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Intercity Passenger Rail Act of 2012.*

3 *SEC. 2. (a) The Legislature finds and declares all of the*
4 *following:*

5 *(1) An intercity rail passenger system, linking major urban*
6 *centers and complemented by feeder bus services that provide*
7 *access to outlying areas and destinations, is an important element*
8 *of the state's transportation system, and shall remain a state-funded*
9 *program.*

10 *(2) The state has a continuing interest in the provision of*
11 *cost-effective intercity rail passenger services and has a*
12 *responsibility to coordinate intercity rail passenger services*
13 *statewide.*

14 *(3) Since 1976, the state has invested over one billion eight*
15 *hundred million dollars (\$1,800,000,000) in capital improvements*
16 *and operating support for intercity rail passenger service and must*
17 *ensure the protection of that investment.*

18 *(b) The Legislature, through the enactment of this act, intends*
19 *all of the following:*

20 *(1) The Secretary of Business, Transportation and Housing*
21 *shall be responsible for the overall planning, coordination, and*
22 *budgeting of the intercity passenger rail service.*

23 *(2) If the secretary determines that transferring responsibility*
24 *for intercity rail service in a particular corridor or corridors to a*
25 *statutorily created joint powers agency would result in*
26 *administrative or operating cost reductions, the secretary may*
27 *authorize the Department of Transportation to enter into an*
28 *interagency transfer agreement to effect a transfer of those*
29 *administrative functions.*

30 *(3) Any intercity rail corridor for which administrative*
31 *responsibility has been transferred to a joint powers board through*
32 *an interagency transfer agreement shall remain as a component*
33 *of the statewide system of intercity rail corridors.*

1 (4) *The public interest requires expansion of the state intercity*
2 *rail program in order to keep pace with the needs of an expanding*
3 *population.*

4 (5) *For not less than a five-year period, the level of state funding*
5 *for intercity rail service in each corridor should be maintained at*
6 *a level equal to at least the current level of service in the corridor;*
7 *thus providing fiscal stability that will allow appropriate planning*
8 *and operation of these services.*

9 SEC. 3. *Section 14031.8 of the Government Code is amended*
10 *to read:*

11 14031.8. (a) The Secretary of Business, Transportation and
12 Housing shall establish, through an annual budget process, the
13 level of state funding available for the operation of intercity
14 passenger rail service in each corridor.

15 (b) Where applicable, operating funds shall be allocated by the
16 secretary to the joint powers board in accordance with an
17 interagency *transfer* agreement—~~which~~ *that* includes mutually
18 agreed-upon rail services. Funds for the administration and
19 marketing of services, as appropriate, shall also be transferred by
20 the secretary to the joint powers board, subject to the terms of the
21 interagency *transfer* agreement.

22 (c) The joint powers board or local or regional entities may, *but*
23 *shall not be required to*, augment state-provided resources to
24 expand intercity passenger rail services *using local resources*, or
25 to address funding shortfalls in achieving agreed-upon performance
26 standards.

27 (d) The department may provide any support services as may
28 be mutually agreed upon by the board and the department.

29 (e) Operating costs shall be controlled by dealing with, at a
30 minimum, the current Amtrak cost allocation formula, *which,*
31 *beginning in federal fiscal year 2013–14, will be subject to Section*
32 *209 of the federal Passenger Rail Investment and Improvement*
33 *Act, and the ability to contract out to Amtrak or other rail operators*
34 *as a part of federal legislation dealing with Amtrak reauthorization.*

35 (f) Not later than December 31, 1997, the secretary shall
36 establish a set of uniform performance standards for all corridors
37 and operators to control cost and improve efficiency. *To the extent*
38 *necessary, as determined by the secretary, performance standards*
39 *may be modified not later than December 31, 2014, relative to*

1 *including the LOSSAN Corridor among the corridors subject to*
2 *an interagency transfer agreement.*

3 *(g) Notwithstanding any other provision of this section, with*
4 *regard to the LOSSAN Corridor, local resources described in*
5 *subdivision (c) shall not be available for expenditure to offset any*
6 *redirection, elimination, reduction, or reclassification of state*
7 *resources for operating intercity rail services.*

8 *SEC. 4. Section 14070.2 of the Government Code is amended*
9 *to read:*

10 14070.2. (a) If authorized by the secretary, the department
11 may, through an interagency *transfer* agreement, transfer to a joint
12 powers board, and the board may assume, all responsibility for
13 administering *state-funded intercity* passenger rail service in the
14 corridor. Upon the date specified in the agreement, the board shall
15 succeed to the department's powers and duties relative to that
16 service, except that the department shall retain responsibility for
17 developing budget requests for the service through the state budget
18 process, which shall be developed in consultation with the board,
19 and for coordinating service in the corridor with other *intercity*
20 passenger rail services in the state.

21 (b) ~~The~~(1) *Except as otherwise provided in paragraph (2), the*
22 *interagency transfer agreement shall be executed on or before*
23 *December 31, 1996.*

24 (2) *With respect to the LOSSAN Corridor, if an interagency*
25 *transfer agreement for that corridor is not entered into on or before*
26 *December 31, 2013, the secretary shall provide a report to the*
27 *Governor and the Legislature on or before January 31, 2014,*
28 *explaining why an acceptable agreement has not been developed,*
29 *with specific recommendations for developing an acceptable*
30 *agreement.*

31 (c) The secretary shall require the board to demonstrate the
32 ability to meet the performance standards established by the
33 secretary pursuant to subdivision (f) of Section 14031.8.

34 *SEC. 5. Section 14070.4 of the Government Code is amended*
35 *to read:*

36 14070.4. (a) An interagency transfer agreement between the
37 department and a joint powers board, when approved by the
38 secretary, shall do all of the following:

39 (1) Specify the date and conditions for the transfer of
40 responsibilities and identify the annual level of funding and ensure

1 that the level of funding is consistent with and sufficient for the
2 planned service improvements within the corridor. *For purposes*
3 *of the LOSSAN Corridor, the interagency transfer agreement shall*
4 *cover the initial five-year period after the transfer, but may be*
5 *extended thereafter by mutual agreement.*

6 (2) Identify, for the initial year and subsequent years, the funds
7 to be transferred to the board including state operating subsidies
8 made available for intercity rail services in the corridor, and funds
9 currently used by the department for administration and marketing
10 of the corridor, with the amounts adjusted annually for inflation
11 and in accordance with the business plan.

12 (3) Specify the level of service to be provided, the respective
13 responsibilities of the board and the department, the methods that
14 the department will use to assure the coordination of services with
15 other rail passenger services in the state, and the methods that the
16 department will use for the annual review of the business plan and
17 annual proposals on funding and appropriations.

18 (4) Describe the terms for transferring to the joint exercise of
19 powers agency car and locomotive train sets, and other equipment
20 and property owned by the department and required for the intercity
21 service in the corridor including, but not limited to, the number of
22 units to be provided, liability coverage, maintenance and warranty
23 responsibilities, and indemnification issues.

24 (5) Describe auditing responsibilities and process requirements,
25 reimbursement and billing procedures, the responsibility for
26 funding shortfalls, if any, during the course of each fiscal year, an
27 operating contract oversight review process, performance standards
28 and reporting procedures, the level of rail infrastructure
29 maintenance, and other relevant monitoring procedures. The
30 description shall contain an evaluation of the impact of any transfer
31 of equipment on other intercity corridors. The agreement shall
32 endeavor to minimize the impact and maximize the efficient use
33 of the equipment, including continued joint use of equipment that
34 is currently shared by one or more corridors.

35 (b) Use of the annual state funding allocation, as set forth in the
36 interagency transfer agreement, shall be described in an annual
37 business plan submitted by the board to the secretary for review
38 and recommendation by April 1 of each year. The business plan,
39 when approved by the secretary, shall be deemed accepted by the
40 state. The budget proposal developed by the department for the

subsequent year shall be based upon the business plan approved by the secretary. The business plan shall be consistent with the interagency *transfer* agreement and shall include a report on the recent as well as historical performance of the corridor service, an overall operating plan including proposed service enhancement to increase ridership and provide for increased traveler demands in the corridor for the upcoming year, short-term and long-term ~~capital~~ *capital* improvement programs, funding requirements for the upcoming fiscal year, and an action plan with specific performance goals and objectives. The business plan shall document service improvements to provide the planned level of service, inclusion of operating plans to serve peak period work trips, and consideration of other service expansions and enhancements. *With respect to the LOSSAN Corridor, the initial business plan shall be consistent with the immediately previous State Rail Plan developed by the department pursuant to Section 14036.* The business plan shall clearly delineate how funding and accounting for state-sponsored rail passenger services shall be separate from locally sponsored services in the corridor. Proposals to expand or modify passenger services shall be accompanied by the identification of all associated costs and ridership projections. The business plan shall establish, among other things: fares, operating strategies, capital improvements needed, and marketing and operational strategies designed to meet performance standards established in the interagency *transfer* agreement.

(c) Based on the annual business plan and the subsequent appropriation by the Legislature, the secretary shall allocate state funds on an annual basis to the board. As provided in the interagency *transfer* agreement, any additional funds that are ~~required~~ *needed* to operate the passenger rail service during the a fiscal year ~~shall~~ *may* be provided by the board from jurisdictions that receive service. In addition, the board may use any cost savings or farebox revenues to provide service improvements related to intercity service. In any event, the board shall report the fiscal results of the previous year's operations as part of the annual business plan.

(d) The level of service funded by the state shall in no case be less than the current number of intercity round trips operated in a corridor and serving the end points currently served by the intercity rail corridor. *For purposes of the LOSSAN Corridor, the level of*

1 *service funded by the state shall be no less than the level of service*
2 *funded as of January 1, 2013.* Subject to Section 14035.2, the level
3 of service funded by the state shall also include feeder bus service
4 with substantially the same number of route miles as the current
5 feeder system, to be operated in conjunction with the trains.
6 However, the interagency *transfer* agreement shall not prohibit
7 the joint powers board from reducing the number of feeder bus
8 route miles if the joint powers board determines that a feeder bus
9 route is not cost effective as provided in Section 14035.2.

10 (e) Nothing in this article shall be construed to preclude
11 expansion of state-approved intercity rail service.

12 (f) *Notwithstanding any other provision of this section, with*
13 *regard to the LOSSAN Corridor, local resources described in*
14 *subdivision (c) shall not be available for expenditure to offset any*
15 *redirection, elimination, reduction, or reclassification of state*
16 *resources for operating intercity rail services.*

17 SEC. 6. *Section 14070.6 of the Government Code is amended*
18 *to read:*

19 14070.6. The department and any entity that assumes
20 administrative responsibility for *intercity* passenger rail services
21 through an interagency transfer agreement, may, through a
22 competitive solicitation process, contract with the National Railroad
23 Passenger Corporation (Amtrak) or with organizations not
24 precluded by state or federal law to provide *intercity* passenger
25 rail services, and may contract with rail corporations and other rail
26 operators for the use of tracks and other facilities and for the
27 provision of *intercity* passenger services on terms and conditions
28 as the parties may agree. The department is deemed to be a
29 third-party beneficiary of the contract, and the contract shall not
30 contain any provision or condition that would negatively impact
31 on or conflict with any other contracts the department has regarding
32 *intercity passenger* rail services. Any entity that succeeds the
33 department as sponsor of state-supported *intercity* passenger rail
34 services through an interagency transfer agreement, is deemed an
35 agency of the state for all purposes related to *intercity* passenger
36 rail services, including Section ~~14070.6~~ 5311 of Title 49 of the United
37 States Code.

38 SEC. 7. *Article 5.2 (commencing with Section 14072) of*
39 *Chapter 1 of Part 5 of Division 3 of Title 2 of the Government*
40 *Code is repealed.*

SEC. 8. Article 5.2 (commencing with Section 14072) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 5.2. LOSSAN Corridor

14072. (a) The Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency, also known as the LOSSAN Agency, is an existing joint powers authority established to provide an organization capable of implementing the recommendations contained in the State Rail Corridor Study Group's June 1987 report entitled "Los Angeles-San Diego State Rail Corridor Study" and undertaking related efforts to improve intercity services and facilities in the corridor and to coordinate subcorridor commuter rail services with intercity services. The LOSSAN Agency is comprised of voting members, as specified in the joint powers agreement.

(b) "LOSSAN Corridor" means the San Diego-Los Angeles-San Luis Obispo intercity passenger rail corridor.

14072.2. This article shall be applicable only if the members of the LOSSAN Agency enter into an amended joint powers agreement to expand the authority of the agency to permit the administration of state-funded intercity passenger rail services on the LOSSAN corridor, and the LOSSAN Agency thereafter elects to become a party to an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070). The amended joint powers agreement shall establish the terms and conditions for the joint powers agency and is subject to the approval of the governing board of each member agency of the LOSSAN Agency. Only the LOSSAN Agency operating under the amended joint powers agreement, and not the LOSSAN Agency existing on January 1, 2013, may exercise jurisdiction over intercity rail services on the LOSSAN Corridor under an interagency transfer agreement.

~~SECTION 1. Section 14070 of the Government Code is amended to read:~~

~~14070. As used in this article, the following terms have the following meanings:~~

~~(a) (1) "Board" or "joint powers board" means the governing board of a joint exercise of powers agency established pursuant to Article 5.2 (commencing with Section 14072), Article 5.4 (commencing with Section 14074), or Article 5.6 (commencing~~

1 with Section 14076) for the purpose of assuming administrative
2 responsibility for intercity passenger rail service within the
3 respective corridor.

4 (2) “Board” or “joint powers board” also means the governing
5 board of a joint exercise of powers agency established for the
6 purpose of assuming administrative responsibility for intercity
7 passenger rail service within the Pacific Surfliner corridor.

8 (b) “Secretary” means the Secretary of the Business,
9 Transportation and Housing Agency or successor agency.

10 SEC. 2. Section 14070.2 of the Government Code is amended
11 to read:

12 14070.2. (a) If authorized by the secretary, the department
13 may, through an interagency agreement, transfer to a joint powers
14 board, and the board may assume, all responsibility for
15 administering passenger rail service in a corridor. Upon the date
16 specified in the agreement, the board shall succeed to the
17 department’s powers and duties relative to that service, except that
18 the department shall retain responsibility for developing budget
19 requests for the service through the state budget process, which
20 shall be developed in consultation with the board, and for
21 coordinating service in the corridor with other passenger rail
22 services in the state.

23 (b) (1) Except as otherwise provided in paragraph (2), the
24 interagency agreement shall be executed on or before December
25 31, 1996.

26 (2) With respect to the Pacific Surfliner corridor, the interagency
27 agreement shall be executed on or before December 31, 2013.

28 (c) The secretary shall require the board to demonstrate the
29 ability to meet the performance standards established by the
30 secretary pursuant to subdivision (f) of Section 14031.8.